

UNITED STATES DISTRICT COURT OF OHIO
WESTERN DIVISION

ANTONIO MOORE, :
 :
Plaintiff, :
 : CASE NO. C-1-02-0430
vs. : (J. Weber)
 :
KROGER COMPANY, ET AL., :
 :
Defendants.:
 :
- - -

Deposition of POLICE OFFICER MARCUS McNEIL,
taken as on behalf of the Plaintiff, upon
cross-examination, pursuant to the Federal Rules of
Civil Procedure and pursuant to agreement among
counsel as to time and place of taking the deposition,
at 10:00 a.m., on Wednesday, March 26, 2003, at the
offices of Manley-Burke, 225 West Court Street,
Cincinnati, Ohio, before Edna M. Hawkins, a court
reporter and notary public in and for the State of
Ohio.

HAWKINS COURT REPORTING SERVICES
1160 INNER CIRCLE DRIVE
CINCINNATI, OHIO 45240-3002
TELE/FAX: 513-851-2313

1 Q. And tell me a little bit about your
2 educational background?

3 A. I went to Western Hills High School,
4 where I was graduated in 1992.

5 Q. Have any post high school education
6 classes, courses, anything in that regard?

7 A. No, I don't.

8 Q. What about any certificates, trades,
9 anything in that respect?

10 A. No, I don't.

11 Q. And how are you currently employed,
12 officer?

13 A. City of Cincinnati Police Officer.

14 Q. And how long have you been employed
15 with the City of Cincinnati?

16 A. Four-and-a-half years.

17 Q. So your title today is what?

18 A. Police Officer.

19 Q. Police Officer. And briefly describe
20 to me what are your duties as a Police Officer with
21 the Cincinnati Police Department?

22 A. I patrol the areas of Bond Hill, just
23 routine police patrol.

24 Q. And that means that you're the driver
25 of a police vehicle and you just drive through the

1 A. At the time, it was 22 weeks; may be
2 24 weeks now.

3 Q. Is it different now?

4 A. I think they changed it two weeks,
5 moved it up two weeks.

6 Q. Okay. So during those 22 weeks, you
7 would just have various training in the areas
8 concerning, I believe you said, law, physical
9 abilities and just tactical --

10 A. Correct.

11 Q. -- type of areas? Now, did your
12 training also include training on how to effectuate
13 an arrest?

14 A. Yes.

15 Q. Did you also -- Well, tell me a little
16 bit about that. Is that part of some of the field
17 training that you just spoke about?

18 A. It's field training. It's classroom
19 training also.

20 Q. Did you also receive training
21 regarding probable cause?

22 A. Yes.

23 Q. And tell me a little bit about that.
24 What does that consist of?

25 A. Probable cause is reasons that you

1 have to arrest a person that leads up to an arrest.

2 Q. Okay. Now, the training that you
3 received on that, would that have been also in
4 classroom and in the field?

5 A. Yes.

6 Q. Okay. Now, after becoming a
7 Cincinnati Police Officer, have you received any
8 additional training on how to effectuate an arrest?

9 A. I've had training for investigative
10 areas. I've had training in gunshot residue, various
11 trainings as far as just police related.

12 Q. Okay. And that's something that's
13 required by the Department?

14 A. Yes.

15 Q. Okay. And how often do you have
16 training? Is this annually, quarterly or how is that
17 --

18 A. Right. It's yearly.

19 Q. Yearly?

20 A. Um-hum.

21 Q. Okay. So you have yearly training in
22 different areas from year-to-year or is it always the
23 same areas?

24 A. It's different trainings.

25 Q. Okay. And that's just mandated or set

1 up by the Department?

2 A. Correct.

3 Q. Now, what about any post training, and
4 when I say, "post," I mean since you've been a police
5 officer, have you had additional training on probably
6 cause as part of the yearly training that you spoke
7 about.

8 A. I can't remember as far as just that in
9 detail, but part of our training is we have drug
10 training just to, to recognize drug activity and
11 making the arrest, so --

12 Q. Okay. So some of the training
13 probably would have covered, is that what you're
14 saying, would have covered that issue --

15 A. Correct.

16 Q. -- in other training you received?

17 Tell me a little bit, Officer McNeil,
18 about training or if you've received any training as
19 it relates to non-moving violations.

20 A. Non-moving violations?

21 Q. Correct. Now, whether you cite it;
22 can you arrest for it; have you covered that part?

23 A. A non-moving violation --

24 Q. Yeah, like --

25 A. -- that would be a parker?

1 Q. Exactly.

2 A. It's just a citation.

3 Q. Okay. And that's part of the training
4 that you would have received --

5 A. Right.

6 Q. -- prior to -- well, I guess, in the
7 process of becoming a Cincinnati Police Officer?

8 A. Right.

9 Q. Now, tell me a little bit about what
10 that consisted of.

11 A. A parking violation?

12 Q. Correct.

13 A. Parked in any violation of a posted
14 sign; parked with expired tags, parked with no
15 license plates, parked too far from a curb. I mean,
16 it's a ton of things you can be cited for on parking
17 violations.

18 Q. Okay, and that's something that you
19 would look for while you're on patrol in the Bond
20 Hill area?

21 A. Correct.

22 Q. Okay. Now, have you received any -- or
23 covered that type of issue in any of your
24 post-training or seminars or whatever you may have
25 taken with the Cincinnati Police Department?

1 A. I don't understand that question.

2 Q. The annual training that you told me
3 that you receive from the Cincinnati Police
4 Department.

5 A. Do we have training as far as writing
6 parkers?

7 Q. Right.

8 A. No.

9 Q. Okay. So you wouldn't have had any --
10 Since you've been a police officer, you would not have
11 had any additional training as it relates to writing
12 parkers. I'll use your words?

13 A. No.

14 Q. Okay, officer, now, you mentioned --
15 and I'll just go right into that -- that on the day
16 with the incident involving Mr. Moore, you were doing
17 a detail assignment?

18 A. Correct.

19 Q. What exactly is a detail assignment?

20 A. It's a, it's off-duty work that you do
21 for any establishment that requires a police officer
22 presence.

23 Q. Okay. Is it by contract between the
24 establishment and yourself?

25 A. Correct.

1 Q. A written contract?

2 A. Yes.

3 Q. So the establishment would come and
4 just ask Officer McNeil if he would like to do
5 off-duty work at the establishment?

6 A. They wouldn't ask me; I'll sign up for
7 it and it's -- you're picked, you're hand-picked by
8 the person in charge of the detail.

9 Q. Okay. You would sign up for it
10 through --

11 A. Through a district.

12 Q. Through the district.

13 A. Through the district.

14 Q. Just to make sure that I have this
15 because I'm just not familiar with how that actually
16 works, there would be a list posted in the district
17 --

18 A. Right.

19 Q. -- correct, and on that list there may
20 be a number of different establishments who are in
21 need of off-duty police officers?

22 A. Right.

23 Q. You just sign your name by the
24 establishment and the time that you would be
25 available?

1 A. Correct.

2 Q. Okay. And who makes the determination
3 of yes, you can do that off-duty detail or no, we're
4 giving it to officer X?

5 A. Detail Coordination.

6 Q. Okay. Is that a unit?

7 A. Yes.

8 Q. Okay. Who is eligible to do details
9 which -- Is there -- specific police officers that are
10 eligible for off-duty assignments or detail work?

11 A. Any sworn police officer that's on
12 duty or needs -- has police powers.

13 Q. Okay. So no special requirements, no
14 certain number of training hours, or nothing to that
15 effect, as long as you're a sworn police officer?

16 A. Well, you have to be off probation. I
17 think it's one year.

18 Q. Okay. And do you -- have you ever
19 worked as a detail coordinator?

20 A. No.

21 Q. Do you know what method the detail
22 coordinators use to approve or disapprove officers
23 for specific detail assignments?

24 A. I have no idea.

25 Q. Have you ever signed up for a detail

1 that you didn't receive?

2 A. Yes.

3 Q. Do you know what the reason for you
4 not receiving that would have been?

5 A. It may be because she gave me x-amount
6 of details in another area or the person may have more
7 seniority.

8 Q. Okay. So it could just be a number of
9 different reasons as to why?

10 A. Right, right.

11 Q. Okay. I'm following you.

12 What about the establishment, do they
13 ever require -- they have specific requirements for
14 the officers that, that they would like to do the
15 detail assignments there?

16 A. Sometimes. At this particular
17 establishment, they may be parking in a fire lane; you
18 have to move cars out of the fire lane, up against the
19 curb of the store; may be some aggressive panhandling
20 or just disorderly juveniles running around in the
21 store or whatever may be going on to request a police
22 presence.

23 Q. Okay, but what I'm asking is do they
24 have any specific requirements for the individual
25 officer, like oh, we want a veteran officer or we

1 want a officer who's on a bike or --

2 A. Not to my knowledge.

3 Q. Okay, but now, I believe what you were
4 just stating to me is some -- you were just giving me
5 reasons why an establishment may want an off-duty
6 officer --

7 A. Right.

8 Q. -- is that -- Okay, okay; I'm just
9 wanting to make sure I understand what you're saying.

10 Now, doing detail work, is that
11 strictly voluntary?

12 A. Yes.

13 Q. And is there a explanation sheet or
14 some kind of manual or something that you follow to
15 do detail work?

16 A. No.

17 Q. So it's just assumed once you're off
18 probation, you want to sign to do detail, it's
19 assumed that you would know exactly what to do once
20 you do that detail assignment; is that correct?

21 A. Pretty much, yes. I mean, it's basic
22 police work, just patrolling and, and observing of
23 what's goin' on.

24 Q. Okay. Now, when you were doing detail
25 work for the Kroger store, what were your duties

1 there, just the basic police patrol work?

2 A. Yes.

3 Q. And prior to the incident where you
4 were involved with Mr. Moore, had you done previous
5 details at Kroger's locations?

6 A. Yes.

7 Q. Had you done previous details at that
8 specific Kroger location?

9 A. Yes.

10 Q. What other locations had you been at,
11 if you remember?

12 A. Far as Krogers?

13 Q. Yes.

14 A. That was the only one.

15 Q. And prior to the incident involving
16 Mr. Moore, how many details would you say, roughly,
17 that you had done at that Kroger's location?

18 A. I can't remember.

19 Q. More than five?

20 A. Yes.

21 Q. More than 10?

22 A. Yes.

23 Q. More than 15?

24 A. Probably.

25 Q. So what about 20, more than 20?

1 A. Between five and 10, maybe.

2 Q. Okay, okay. Now, would that -- What
3 period of time would that have been prior to the
4 incident with Mr. Moore, like, within that -- If this
5 happened in June, this incident occurred in June,
6 would that have been within that year? Had it been,
7 like, two years?

8 A. Within that year.

9 Q. Okay. At various different times or
10 are your detail assignments always at the same time
11 for the Kroger store?

12 A. At that time, I think I was doin' the
13 4:00 to 8:00 shift.

14 Q. Okay. And what about the other
15 details, the 15 or 10, 15 that you've had previously?

16 A. It was always 4:00 to 8:00.

17 Q. Okay, always 4:00 to 8:00, 4:00 p.m. to
18 8:00 p.m.?

19 A. Yes.

20 Q. Now, while you were doing details at
21 that Kroger store, had you ever received any
22 customer's complaint about you or your conduct?

23 A. No.

24 Q. What about any complaints from
25 employees of Kroger's about or your conduct?

1 work hours, while they're working. Would something
2 like that apply to you, as well?

3 A. No.

4 Q. Okay. Were you told anything about
5 rules and regulations or anything like that that you
6 needed to follow while you were doing detail work for
7 the Kroger Company?

8 A. No, just, just have a presence while
9 you're there, basically.

10 Q. Okay. Now, while you're doing detail
11 work -- I know you said you would be paid by the
12 establishment -- do they cover any other benefits for
13 you at that time?

14 A. No.

15 Q. Okay. So if you were to get injured
16 while doing detail work and were eligible to receive
17 Workmen's Compensation, that would come through the
18 Department or the establishment?

19 A. I have no idea.

20 Q. Okay. Because you've never been
21 injured --

22 A. Correct.

23 Q. -- while you're working? All right.
24 So, then, is the -- as far as benefits that you
25 receive while you're doing detail work, is your

1 manual?

2 A. Right.

3 Q. A manual in Krogers that's written out
4 by the Cincinnati Police Officers, who are doing
5 detail work there?

6 A. Right.

7 Q. But what about a specific Kroger
8 employee manual? Have you ever received anything
9 like that?

10 A. No.

11 Q. Were you ever instructed -- Well, what
12 about any, any literature regarding rules and
13 regulations from Krogers? Have you ever received
14 anything like that from any Kroger representative?

15 A. No.

16 Q. Have you ever received any manuals or
17 literature from the Cincinnati Police Department
18 regarding Kroger details?

19 A. No. We have just detail, detail
20 regulations overall for whatever detail you're doing.

21 Q. Okay, and that is issued by the
22 Cincinnati Police Department?

23 A. Right.

24 Q. So you've received a copy of that?

25 A. Right.

1 uniform?

2 A. Yes.

3 Q. And if you can just explain, briefly

4 -- It was a full uniform?

5 A. Yes.

6 Q. What, exactly, just briefly, is a full
7 Cincinnati Police Uniform?

8 A. Consisting of what I'm wearing today,
9 the issue duty weapon, night stick, a radio.

10 Q. Okay. And so you were dressed in that
11 at the time. Now, when you came to that store that
12 day, you had been relieving someone, I believe you
13 stated earlier?

14 A. Right.

15 Q. Do you remember what the store was
16 like that day? Was it a crowded day, a light day,
17 very many people when you, initially, arrived?

18 A. That store is normally busy all the
19 time.

20 Q. Okay. And how long after you had
21 arrived at work, do you recall first seeing Mr.
22 Moore?

23 A. I can't remember.

24 Q. What were you doing when you first saw
25 Mr. Moore.

1 A. Yes.

2 Q. And there is a bank located inside of
3 this Krogers?

4 A. Correct.

5 Q. I believe it's a Fifth-Third Bank; is
6 that correct?

7 A. Yes, it is.

8 Q. Okay. And does he try to continue to
9 walk as you're talking to him about moving the
10 vehicle?

11 A. No. He's standing there, engaged in
12 conversation with me.

13 Q. And what were you saying in response
14 to Mr. Moore or were you just standing there?

15 A. I responded to him, just telling him
16 he needed to honor the sign and not park there and
17 that there is -- if he wanted to park, there's -- I
18 believe he was in this spot, here (pointing on
19 exhibit), and there's a spot directly behind him that
20 was -- it was a open space. All he had to do was
21 just back up in it. He had the same parking spot,
22 maybe, five yards away from where he was at.

23 Q. Okay. And once Mr. Moore indicated to
24 you that he wasn't to go to move, did you contact the
25 Kroger manager?

1 A. No, I didn't.

2 Q. Okay. Was there a manager or someone
3 from the administration from Kroger out there at that
4 time?

5 A. I can't recall.

6 Q. Okay. How many times did you ask Mr.
7 Moore to move his vehicle?

8 A. Several.

9 Q. Just repeatedly, move your vehicle,
10 move your vehicle?

11 A. Um, yes.

12 Q. Okay. How long did this conversation
13 between you and Mr. Moore last?

14 A. It may have lasted, maybe, all of four
15 or five minutes before I called for backup.

16 Q. Do you remember if it was still
17 daylight out?

18 A. Yes.

19 Q. Now, you said some people had began --
20 "patrons," I believe is your word and employees --

21 A. Some, some customers and some
22 employees.

23 Q. Okay. And they started to gather.
24 Were they in the parking lot around you and Mr.
25 Moore?

1 A. Not in the parking lot. They were
2 more on the apron of the walkway, near the pop
3 machines.

4 Q. Okay. A large crowd, like, more than
5 10 people?

6 A. More than 10 people; yes.

7 Q. And they were just standing, observing
8 you and Mr. Moore?

9 A. Some of 'em started to, to get
10 involved, shouting things. I can't -- The exacts
11 words was -- some things were screw that, but in a, in
12 a profane, profane way. "You ain't got to do what he
13 sayin'," just, just normal young teenage activity when
14 somethin's goin' on with the police.

15 Q. Okay. Now, were you facing the crowd?

16 A. No. My back was to the crowd.

17 Q. Okay. So Krogers would have been, the
18 establish --

19 A. Behind us --

20 Q. -- would have been behind you?

21 A. Right.

22 Q. Now, where you and Mr. Moore were
23 standing in the parking lot, were you blocking
24 traffic from coming through?

25 A. No.

1 Q. Now, Mr. Moore is stopped and he's
2 just talkin' to you; you're trying to ask him to move
3 his vehicle and you said that he started talkin'
4 about a number of different things: the Justice
5 System, the police and so forth?

6 A. Um-hum.

7 Q. Did he ever make any other attempts or
8 efforts to go inside of the Kroger Store?

9 A. Not that I recall.

10 Q. Okay. Did you tell him he could not
11 go inside of the Kroger Store?

12 A. No, I did not.

13 Q. Did you, in any way, stop him from
14 going inside the Kroger Store, and when I say, "in
15 any way," I mean by any kind of manual gesture or
16 anything to that effect?

17 A. No, I did not.

18 Q. Okay. Did Mr. Moore indicate to you
19 that -- No. Strike that.

20 Do you know if the bank was even open
21 at this time, the Fifth-Third Bank, inside the
22 Krogers?

23 A. I believe the bank -- the bank closes
24 at 8:00, so I get off at 8:00 which, if they're
25 closed, I'm gone, I would say they were open.

1 Q. So the crowd was about 40 feet away?

2 A. Maybe -- Yes, roughly, from a parking
3 spaced.

4 Q. Okay.

5 A. They were probably another 12-to-15
6 feet away from my back.

7 Q. Now, you showed Mr. Moore the, the
8 parking sign. Did you point that out to Mr. Moore?

9 A. Yes.

10 Q. The reserved only --

11 A. On, on several different occasions.

12 Q. And what did Mr. Moore respond? How
13 did he respond in reference to the parking sign, if
14 you recall?

15 A. Normally, his response is, "Do what
16 you got to do," and he goes in the bank. He goes --
17 He just on about his business and that's that. This
18 particular day, he chose to stay out in the parking
19 lot and have a confrontation with me.

20 Q. Okay. Let me go back a minute. You
21 said, "normally." So he's been at that parking space
22 before? You've observed him --

23 A. Right.

24 Q. -- parking in that space before?

25 A. You asked me earlier have I ever had

1 contact with him and I told you just on this, this
2 situation --

3 Q. Okay.

4 A. -- with the parking space.

5 Q. On the other days, though --

6 A. Correct.

7 Q. -- prior to June 21st?

8 A. Correct.

9 Q. And you've told him on other occasions
10 not to park in this reserved, only, parking space?

11 A. I've asked.

12 Q. Or you've asked him, move your
13 vehicle?

14 A. Correct.

15 Q. Which he has never done; is that your
16 testimony?

17 A. Correct.

18 Q. And in response to that, have you had
19 occasion to do anything on prior occasions?

20 A. No.

21 Q. Have you ever went and got a store
22 manager on prior occasions about Mr. Moore's vehicle
23 being in the reserved only, "Reserved for Police
24 Vehicles Only," space?

25 A. No.

1 Q. So, normally, he would just continue
2 on, go to the bank, get back in the vehicle and drive
3 off?

4 A. Right.

5 Q. On previous, previous occasions?

6 A. Correct.

7 Q. But you say on this particular time,
8 he remained outside and engaged in a conversation
9 with you?

10 A. Engaged in a confrontation with me;
11 yes.

12 Q. Okay. Now, confrontation, why was it
13 confrontational? Why was he confrontational?

14 A. Because he was argumentative over the
15 parking spot and what was goin' on with the current
16 news with the Police Department and his, his actions
17 became to a point where it involved -- it started to
18 get everybody else involved in it.

19 Q. Okay. His actions or his -- When you
20 say his, "actions," body language or verbal language?

21 A. Body actions, some verbal, some hand
22 gestures, movement, just actions period.

23 Q. Okay. Now, he's argumentative; your
24 conversation was totally about the parking space; is
25 that correct?

1 A. Initially, yes.

2 Q. Okay. Initially, then what did it
3 change to?

4 A. His behavior.

5 Q. Did you engage in any type of
6 conversation with him in reference to his other
7 comments about the Police Department, the Justice
8 Department, what's goin' on here in the city?

9 A. No.

10 Q. At what point did your conversation
11 turn to Mr. Moore's behavior?

12 A. I guess the -- What started to make me
13 become more aware of the situation is when the first
14 outburst came from behind me. The other people
15 started to get involved.

16 Q. Okay. So once other people started to
17 get involved, you then --

18 A. Called for backup.

19 Q. Called for backup. And are you saying
20 that other people were becoming involved because of
21 Mr. Moore's actions?

22 A. Just -- I guess I would say just
23 because of there was some activity goin' on between
24 the police and another person, period.

25 Q. That would cause the crowd to get

1 involved?

2 A. Right.

3 Q. So it wasn't Mr. Moore's, it wasn't
4 Mr. Moore's actions, specifically, that was causing
5 the crowd to get involved? It could have been the
6 fact that you and Mr. Moore, a Police Officer and
7 another individual --

8 A. His, his actions caused 'em to get
9 involved.

10 Q. Hold on one second. Let me finish the
11 question. Because you and Mr. Moore, you as a police
12 officer, him as another person were engaged in, in a
13 conversation.

14 MR. HARRIS: Objection, asked and
15 answered, but you can answer if you know.

16 A. His actions caused people to get
17 involved. Why they choose to get involved is my
18 reason of saying that just because the police is out
19 having whatever dealings with a citizen.

20 Q. Okay, okay, I understand what you're
21 saying.

22 So you then, I believe, said you
23 decided to call for backup; correct?

24 A. That's correct.

25 Q. And what, exactly, did you state to

1 the dispatcher?

2 A. I can't remember. I think the car,
3 the detail number is 5976, "Can you start me another
4 car towards Krogers?"

5 Q. No other details as to --

6 A. She'll say, "What do you have there,"
7 disorderly subject.

8 Q. Okay. And that's what you stated?

9 A. Correct.

10 Q. Now, another police officer eventually
11 arrived; correct?

12 A. Correct.

13 Q. And would that have been Police
14 Officer Schulte?

15 A. Yes, he was one of 'em.

16 Q. And who were the other ones, if any?

17 A. His partner was Officer Joehonny Reese
18 and Lt. Bley also arrived.

19 Q. Now, Officer Schulte and Officer Reese
20 were in one vehicle?

21 A. Yes.

22 Q. And Lt. Bley was in a separate
23 vehicle?

24 A. Correct.

25 Q. So they pulled up to the parking lot.

1 A. I can't recall the exact words about
2 it.

3 Q. At any time, did you tell him that he
4 couldn't enter inside of the Kroger Store?

5 A. No, I did not.

6 Q. At any time, after you dispatched, did
7 you try to prevent him, manually, with your hands or
8 verbally, from going inside of the Kroger Store?

9 A. At that time, he was gonna be under
10 arrest for disorderly conduct, so he couldn't go into
11 the store after I called for backup.

12 Q. Did you communicate that to him?

13 A. Yes.

14 Q. I'm sorry?

15 A. To him?

16 Q. Yes.

17 A. Yes.

18 Q. So you communicated that he would be
19 under arrest for disorderly conduct prior to the
20 dispatch or immediately after the dispatch?

21 A. Immediately after.

22 Q. Okay. And did you then tell him
23 remain here or give him any other commands at that
24 point?

25 A. I can't remember the exact command or

1 Q. Yes, I'm sorry.

2 A. Both of 'em.

3 Q. And what are you telling them at this
4 point --

5 A. That I --

6 Q. -- briefing them on the situation?

7 A. Right, exactly.

8 Q. I'm sorry. Did you alert them about
9 the situation with the parking lot, Mr. Moore
10 refusing or was your conversation strictly about --

11 A. It was strictly about the behavior and
12 why he was --

13 Q. His conduct?

14 A. Right.

15 Q. I'm sorry. I wasn't finished with my
16 question. So your answer is?

17 A. That I told Schulte that he would be
18 arrested for disorderly conduct; yes.

19 Q. And at that point, what happened next,
20 after you gave the information to Officer Schulte?

21 A. He was placed in custody and put
22 inside -- the back of the police car.

23 Q. So you didn't read him any rights?

24 A. At that time, I didn't; no.

25 Q. Did Officer Schulte, to your

1 Q. Did you tell Mr. Moore that he was in
2 violation of the law for parking his vehicle in this
3 space?

4 A. No. Are you talking about for his
5 arrest?

6 Q. No, I'm sorry; with respect to the
7 parking, with him parking his vehicle in the
8 reserved-for-police-vehicles-only space?

9 A. No, I didn't tell him he was in
10 violation of the law.

11 Q. Okay.

12 A. It was a violation of Kroger law, not
13 police law.

14 Q. And I'm not sure if I asked this
15 already, but did you ask anyone from Krogers if they
16 wanted to sign a complaint against Mr. Moore for
17 parking in this space?

18 A. No.

19 Q. And did you ask Mr. Moore -- I'm
20 sorry. Did you ask anyone from Krogers if they
21 wanted to have Mr. Moore's vehicle towed from this
22 space?

23 A. No, I didn't.

24 Q. Okay. Now, was there a manager
25 outside, from Krogers, during this incident with Mr.

1 Moore?

2 A. I can't recall.

3 Q. Do you recall speaking to a manager
4 while you were outside?

5 A. While we were outside?

6 Q. Um-hum.

7 A. No.

8 Q. Now, at any point during this incident
9 with Mr. Moore, did you become upset?

10 A. No.

11 Q. Did you ever become agitated in
12 dealing with Mr. Moore?

13 A. No.

14 Q. So the fact that Mr. Moore did not
15 want to move his vehicle, that didn't bother you in
16 any way?

17 A. No, it didn't. In fact, if he'd just
18 kept walking to the store, this probably would have
19 been the same as any other occasion; that would have
20 been that, but this day, he chose to stand outside and
21 have a confrontation with me.

22 Q. Okay. How many times, roughly, would
23 you say that you've asked Mr. Moore to move his
24 vehicle?

25 A. Two, three, tops.

1 A. No.

2 Q. And were there customers and patrons
3 still coming in and out of Krogers during this time?

4 A. Yes.

5 Q. How long, if you recall was Police
6 Officer Schulte at the scene, say from the time he
7 arrived to the time he transported Mr. Moore to the
8 Justice Center?

9 A. I can remember how long.

10 Q. More than 15 minutes?

11 A. It's possible. I can't remember.

12 Q. And what about once Mr. Moore is
13 handcuffed, is he still making the same statements as
14 he was making previously?

15 A. Well, once he's handcuffed, he's inside
16 the car, so at that time, the situation that I was
17 trying to de-escalate, it was over. So whatever he
18 had to say inside the car, I didn't pay it no mind.

19 Q. Now, just to make sure I have this
20 clear, Mr. Moore was arrested for disorderly conduct?

21 A. Correct.

22 Q. And is it your testimony, officer,
23 that his behavior and -- Well, I'm sorry; you said,
24 "his actions," you said he had a raised voice; is
25 that correct?

1 officer.

2 Q. You arrested the Plaintiff in your
3 capacity as a Cincinnati Police Officer?

4 A. That is correct.

5 Q. You didn't arrest him as an employee
6 or security guard for Kroger?

7 A. That's correct.

8 Q. And no Kroger personnel or employee
9 suggested or told you or asked you to arrest the
10 Plaintiff on that day?

11 A. No, they didn't.

12 Q. You made an independent judgment to
13 arrest Mr. Moore based upon the situation in your
14 training and experience as a Cincinnati Police
15 Officer.

16 A. That's correct.

17 Q. Do you know whether you could have
18 cited Mr. Moore for trespassing since he parked in a
19 reserved spot on this private lot?

20 A. Cite him for trespassing?

21 Q. Yes.

22 A. No. That's up to the store to bar him
23 from the store and at that point, he can be
24 trespassing.

25 MR. HILLER: I don't have any other